



## → Martin Bader

### Partner

12275 El Camino Real  
Suite 100  
San Diego, CA 92130

T: +1.858.720.7446

F: +1.858.847.4883

[mbader@sheppardmullin.com](mailto:mbader@sheppardmullin.com)

Martin Bader is a partner in the Intellectual Property Practice Group in the firm's San Diego (Del Mar) office.

### Areas of Practice

Martin is a *Chambers* ranked intellectual property trial lawyer and registered patent attorney. He has obtained numerous high-profile victories for technology clients at trial and on summary judgment in the District Courts throughout the U.S. and at the International Trade Commission (ITC). He is also highly skilled at conducting post-grant proceedings before the U.S. Patent and Trademark Office (USPTO), including as lead counsel in *inter partes* reviews (IPRs) and *ex parte* reexaminations.

He has handled numerous high-profile IP trials, including as one of the lead trial lawyers in the *TCL v. Ericsson* case in which he obtained a major victory on behalf of TCL. In that case, TCL sought a FRAND license to Ericsson's 2G/3G/4G SEP portfolio and the Court ultimately set rates between four to 12 times less than Ericsson was demanding. This case was named a "Milestone Case of the Year" by *Managing Intellectual Property* magazine, as it was the first case to ever value a large SEP portfolio. He has also served as lead counsel on over a dozen other cases relating to Standard Essential Patents (SEPs) and has obtained a complete defense jury verdict in the Eastern District of Texas and a verdict of non-infringement for respondent at the ITC.

Clients rely on his background in Electrical Engineering and technology as an intellectual property attorney to litigate highly complex patents and conduct post-grant proceedings before the USPTO. This background has allowed him to successfully resolve cases for his clients involving many diverse technologies, including 2G, 3G, 4G and 5G (e.g., GSM, GPRS, EDGE, CDMA, WCDMA, UMTS, WiMAX, HSPA, CDMA2000, and LTE), Wi-Fi, GPS, Bluetooth, USB modems, Video and Audio compression standards (e.g., MPEG, MQA and others), wireless modems, Multimedia Messaging Service (MMS), internet systems, web-browsers for wireless devices, Android OS, liquid crystal displays (LCD) and televisions.

He was named by *Chambers* as Leading Lawyer for Intellectual Property Patent Litigation in 2023. He was also ranked as the #1 overall performing lawyer in the country at the PTAB, and the #1 lawyer representing Petitioners (with a 100% success ranking) in the Patexia IPR Intelligence Report. He has also been named as a "Litigation Star" by *Benchmark Litigation*, one of the "Best Lawyers in America" by *Best Lawyers*, and one of "The World's Leading Patent Professionals" by *IAM Patent*.

## Honors

Leading Lawyer - Intellectual Property: Patent Litigation, Chambers USA, 2023

Standout Award, San Diego Volunteer Lawyer Program, 2021

Ranked as one of the most active attorneys representing petitioners, *Patexia* IPR Intelligence Report, 2021

Number 1 ranked IPR attorney in the country, *Patexia IPR Intelligence Report*, 2020

Number 2 ranked IPR attorney in the country, *Patexia IPR Intelligence Report*, 2019

Litigation Star, *Benchmark Litigation*, 2017-2024

The World's Leading Patent Professionals, *IAM Patent 1000*, 2020-2022

San Diego Super Lawyer, *Super Lawyers*, 2018-2023

Milestone Case of the Year, *TCL v. Ericsson*, *Managing IP Americas Awards*, 2018

Best Lawyer in America (Litigation - Intellectual Property), *Best Lawyers*, 2018-2024

Best Lawyers in America (Litigation - Patent), *Best Lawyers*, 2017, 2021, 2023-2024

Best of the Bar 2015, *San Diego Business Journal*

Best of the Bar 2016, *San Diego Business Journal*

"Top Attorneys in the PTAB" 2015 for *Inter Partes* Reviews

## Experience

### Representative Patent Litigation Experience

- *Continental Automotive Systems, Inc. v. Nokia* (Chancery Court, Delaware). Co-lead counsel for Continental Automotive Systems, Inc. in a breach of contract and declaratory judgment lawsuit seeking the determination and imposition of FRAND licensing terms in action challenging refusal to license alleged standard essential patents (SEPs) relevant to the 2G, 3G and 4G cellular standards on FRAND terms and conditions.
- *Continental Automotive Systems, Inc. v. Avanci, LLC* (N.D. Tex.). Co-lead counsel for Continental Automotive Systems, Inc. in a lawsuit seeking declaratory relief for determination of breach of antitrust laws and imposition of FRAND licensing terms in action challenging refusal to license alleged standard essential patents relevant to cellular standards on FRAND terms and conditions.
- *TCL Communication Technology Holdings v. Telefonaktiebolaget LM Ericsson and Ericsson Inc.* (C.D. Cal.). Co-lead counsel for TCL Communication in breach of contract and declaratory judgment action relating to FRAND and the IPR policies of ETSI and 3GPP relating to alleged SEPs for 2G GSM/GPRS/EDGE, 3G UMTS and 4G LTE technology. The case was named a "Milestone Case of the Year" by *Managing Intellectual Property*
- *Galas v. Alere Inc.* (California, Superior Court, San Diego, Central Div.). Lead counsel for shareholder representative in merger contract dispute concerning patented and FDA-approved molecular diagnostics and point-of-care technologies and related know-how.
- *In Re Certain LTE and 3G Compliant Cellular Communication Devices* (International Trade Commission). Represented HTC Corporation and HTC America, Inc. in a five-patent ITC investigation relating to LTE- and 3G-compliant cellular communications devices.

- *Lenovo (United States) Inc. et al v. IPCOM GmbH & Co., KG* (N.D. Cal.). Lead counsel for Lenovo (United States) Inc. and Motorola Mobility, LLC in a breach of contract lawsuit, involving the failure by defendant to license standard-essential patents on FRAND terms and conditions.
- *American Patents LLC v. MediaTek, Inc. et al* (W.D. Tex.). Lead counsel for Lenovo (Shanghai) Electronics Technology Co. Ltd. and Lenovo Group Ltd. in a four-patent lawsuit, relating to on-chip service capabilities used in integrated circuits.
- *Uniloc 2017 LLC v. Motorola Mobility, LLC* (Delaware). Lead counsel for Motorola Mobility, LLC in a five-patent lawsuit, relating to certain wireless network technologies.
- *Progressive Fastening Systems, Inc. v. VeloBond, Inc. et al*, (C.D. Cal.). Lead counsel for Progressive Fastening Systems, Inc. in a case involving misappropriation of trade secrets, breach of contract, unfair competition, conversion, intentional interference with an economic advantage, intentional interference with contractual relations, and civil conspiracy.
- *San Diego County Credit Union v. Citizens Equity First Credit Union* (S.D. Cal.). Lead counsel for San Diego County Credit Union in a trademark lawsuit, seeking a declaratory judgment of non-infringement and invalidity of the federally registered mark CEFCU. NOT A BANK. BETTER. and the asserted common-law mark NOT A BANK. BETTER, as well as for false registration and unfair competition.
- *American Patents LLC v. TCL Corp. et al*, (E.D. Tex.). Represented TCL entities in a seven-patent lawsuit, involving various technologies used in “smart” devices.
- *u-blox AG et al v. Interdigital, Inc. et al* (S.D. Cal.). Represented u-blox AG, u-blox San Diego, Inc., and u-blox America, Inc. in breach of contract and declaratory judgment action relating to FRAND and the IPR policies of ETSI and 3GPP relating to alleged standard-essential patents for 2G, 3G and 4G mobile cellular technologies.
- *u-blox AG et al v. Sisvel International S.A. et al* (S.D. Cal.). Represented u-blox AG, u-blox San Diego, Inc., and u-blox America, Inc. in breach of contract and declaratory judgment action relating to FRAND and the IPR policies of ETSI and 3GPP relating to alleged standard-essential patents for 2G, 3G and 4G mobile cellular technologies.
- *Evolved Wireless v. HTC* (Delaware). Lead counsel for HTC Corporation and HTC America, Inc., in a five-patent lawsuit relating to Standard Essential Patents (SEPs) alleged to cover the LTE standard. HTC has also asserted a counter-claim for breach of contract alleging that Evolved Wireless has failed to license its patents on Fair, Reasonable and Non-Discriminatory (FRAND) terms.
- *Rosetta Wireless v. HTC* (N.D. of Illinois). Represents HTC Corporation and HTC America, Inc., in a patent lawsuit relating to storage of data files in mobile wireless devices.
- *Intellect Wireless v. HTC* (N.D. Ill.). Represented HTC Corporation and HTC America, Inc., in a two-patent lawsuit relating to sending pictures to a paging receiver. The accused technology is multimedia messaging service (MMS). After a four-day bench trial, the court found the patents were unenforceable due to inequitable conduct. On appeal, the Federal Circuit affirmed. Subsequently, we obtained an award of \$4.1 million for reimbursement of HTC's attorneys' fees and costs against both the Plaintiff and its attorneys.
- *Wi-LAN v. Alcatel* (E.D. Tex.). Represented HTC Corporation and HTC America, Inc., in a multi-patent lawsuit relating to 3G cellular technology, including HSDPA, HSUPA and HSPA. After a six-day jury trial, obtained a complete defense verdict that HTC did not infringe the asserted patents and all of the asserted claims were invalid as anticipated and/or obvious.
- *Parallel Networks, LLC v. Abercrombie & Fitch Co.* (E.D. Tex.). Lead counsel for Sony Corporation of America and Sony Electronics Inc. in a patent lawsuit relating to executable online applets downloaded over the internet.

We obtained summary judgment of non-infringement on behalf of Sony and the case was dismissed with prejudice.

- *Ericsson Inc. and Telefonaktiebolaget LM Ericsson v. TCL Communication Technology Holdings, et al.* (E.D. Tex.). Represents TCL Communication and TCT Mobile in a five-patent infringement action relating to patents Ericsson's has alleged cover aspects of cellular phone hardware and the Android OS.
- *Gehegan v. Union Bank* (S.D. of Cal.). Lead counsel for Union Bank in an infringement action copyright infringement for alleged use of training materials. The case was resolved during mediation on very favorable terms.
- *Private Label Nutraceuticals v. Vox Nutrition* (District of Utah). Lead counsel for Plaintiff Private Label Nutraceuticals in an action for trademark infringement and cybersquatting. The case was resolved after the Defendant Vox Nutrition agreed to transfer certain websites at issue in the case to my client.
- *Intellect Wireless v. HP/Palm* (N.D. Ill.). Represented Hewlett-Packard and Palm in a two-patent lawsuit relating to sending pictures to a paging receiver. The accused technology is multimedia messaging service (MMS). Obtained summary judgment of no direct infringement and an award for reimbursement of our clients' attorneys' fees and costs.
- *Ivera Medical Corporation v. Excelsior Medical Corporation* (S.D. of Cal.). Represented defendant in patent infringement litigation related to needleless access valves. Court granted summary judgment of invalidity in favor of defendant Excelsior Medical Corporation.
- *Internet Patents Corp. v. Active Network, Inc., the General Automobile Insurance Services, Inc., Permanent General Assurance Corp. of Ohio, QuinStreet, Inc., and Tree.com* (Court of Appeals for the Federal Circuit & California, Northern Dist.). Represented Tree.com in successfully invalidating asserted patent on internet-browser functionality on an early motion to dismiss and sustaining favorable judgment on appeal.
- *Honeywell v. Samsung SDI and Samsung Mobile Display* (D. Del.). Represented Samsung SDI and Samsung Mobile Display. On summary judgment, we invalidated the asserted patent relating to LCD modules based upon the on-sale bar after most of the industry licensed the patent-in-suit. On appeal, the Federal Circuit affirmed. We are currently seeking reimbursement of Samsung's attorneys' fees and costs.
- *Freeny, et al. v. HTC America, Inc.* (E.D. Tex.). Represented HTC America, Inc., in a four-patent infringement lawsuit involving a multiple integrated machine system performing multiple digital functions from a single operating system. Favorable settlement reached.
- *LendingTree v. Zillow, et al.* (N.D. N.C.). Represents LendingTree in an antitrust and patent infringement lawsuit involving a method and computer network for coordinating a loan over the internet. Successfully defeated antitrust claims brought against LendingTree. The case is currently on appeal.
- *NovelPoint Tracking LLC vs. Hyundai Motor America* (E.D. Tex.). Represented Hyundai Motor America in a patent lawsuit relating to GPS-based multimedia navigation systems. Negotiated favorable settlement for client in early stages of litigation.
- *Wi-LAN v. HTC* (E.D. Tex.). Represented HTC Corporation and HTC America, Inc., in a multi-patent lawsuit relating to Wi-Fi, LTE, Wi-MAX and CDMA2000 (EVDO Rev. A) technologies. Obtained favorable settlement.
- *NovelPoint Tracking v. TCT Mobile* (E.D. Tex.). Represented TCT Mobile in a patent lawsuit relating to GPS technology. Obtained favorable settlement.
- *Millennium Labs v. Ameritox* (S.D. Cal.). Lead counsel for Millennium Labs in a Lanham Act action for Trade Dress infringement.

- *Wi-LAN v. Apple* (E.D. Tex.). Represented HTC America, Inc. in a multi-patent lawsuit relating to Wi-Fi, HSPA, LTE and CDMA2000 (EVDO Rev. A) technologies.
- *Novatel Wireless v. Franklin Wireless* (S.D. Cal.). Represented Franklin Wireless, Inc., in a four-patent lawsuit relating to wireless modems, USB modems and Wi-Fi.
- *Golden Bridge v. HTC* (D. Del.). Lead counsel for HTC Corporation and HTC America, Inc., in a two-patent lawsuit relating to WCDMA 3G technology. Case was dismissed after summary judgment and trial victories in related cases.
- *Wi-LAN v. PCD* (E.D. Tex.). Represented Personal Communication Devices, LLC, (PCD) in a two-patent lawsuit relating to Wi-Fi and CDMA2000 technologies. Obtained an extremely favorable settlement for PCD after filing three motions for summary judgment on PCD's behalf.
- *UOI IP of Delaware v. HTC* (D. Del.). Represented HTC Corporation in a two-patent lawsuit relating to language translation devices. Successfully negotiated an early license on extremely favorable terms.
- *Datascape, Inc. v. Kyocera Wireless and Sony Ericsson* (N.D. Ga.). Represented Sony and Kyocera Wireless in a six-patent infringement action. The accused technology relates to data communications and Internet access in wireless devices.
- *Mediatek v. Sanyo* (E.D. Tex.). Represented Mediatek in a three-patent lawsuit and obtained a favorable settlement valued at over \$200 million by our client. The asserted patents related to integrated chipset solutions for conversion of television display signals, audio encoding and compression of video and audio data in video cameras, DVD recorders and cellular phones.
- *Apcon v. MRV Communications* (C.D. Cal.). Represented MRV Communications, a leading provider of telecommunications equipment. After Apcon threatened MRV's customers and sued MRV for patent infringement, we countersued with claims of patent misuse, inequitable conduct and unfair competition. Within 10 months, Apcon surrendered its patent suit by agreeing to a no payment walk-away settlement and agreed to issue a press release stating that MRV's products do not infringe any Apcon patent and that MRV's customers can conduct business without fear of reprisal from Apcon.

## Representative Post-Grant Proceeding Experience Before the USPTO

### Inter Partes Review

- *Motorola Mobility LLC v. Uniloc 2017 LLC*, IPR2020-00038, Represented Motorola Mobility LLC in challenging the validity of U.S. Patent 6,868,079. Petition was instituted on all asserted grounds.
- *HTC Corporation and HTC America, Inc. et al v. INVT SPE LLC*, IPR2018-01472, Represented HTC Corporation and HTC America, Inc. in challenging the validity of U.S. Patent 6,466,563. Petition was instituted on all asserted grounds and all challenged claims were invalidated.
- *HTC Corporation and HTC America, Inc. et al v. INVT SPE LLC*, IPR2018-01475, Represented HTC Corporation and HTC America, Inc. in challenging the validity of U.S. Patent 7,760,815. Petition was instituted on all asserted grounds and all challenged claims were invalidated.
- *HTC Corporation and HTC America, Inc. et al v. INVT SPE LLC*, IPR2018-01476, Represented HTC Corporation and HTC America, Inc. in challenging the validity of U.S. Patent 7,764,711. Petition was instituted on all asserted grounds and all challenged claims were invalidated.
- *TCL Corporation et al. v. Telefonaktiebolaget LM Ericsson*, No. IPR2015-1583. Lead counsel representing Petitioner TCL in challenging the validity of U.S. Patent No. 6,418,310, a patent directed to the control programs for wireless communication devices. Petition was instituted on all asserted grounds and all

challenged claims were invalidated.

- *TCL Corporation et al. v. Telefonaktiebolaget LM Ericsson*, Nos. IPR2015-1584 and IPR2015-1600. Represented Petitioner TCL in challenging the validity of U.S. Patent No. 6,029,052, a patent directed to multimode direct conversion receiver circuitry. Petitions were instituted on all asserted grounds and all challenged claims were invalidated.
- *TCL Corporation et al. v. Telefonaktiebolaget LM Ericsson*, No. IPR2015-1602, IPR2015-1637, IPR2015-1641, IPR2015-1646, IPR2015-1674, IPR2015-1676, IPR2015-1761 and IPR2015-1806. Represented Petitioner TCL in challenging the validity of U.S. Patent No. RE43,931, a patent directed to contact-sensitive transducers for controlling a GUI on a mobile phone. Petitions were instituted on all asserted grounds and all challenged claims were invalidated.
- *TCL Corporation et al. v. Telefonaktiebolaget LM Ericsson*, Nos. IPR2015-1605 and IPR2015-1622. Lead counsel representing Petitioner TCL in challenging the validity of U.S. Patent No. 7,149,510, a patent directed to access control for application software. Petitions were instituted on all asserted grounds.
- *TCL Corporation et al. v. Telefonaktiebolaget LM Ericsson*, Nos. IPR2015-1650, IPR2015-1772, and IPR2015-1878. Lead counsel representing Petitioner TCL in challenging the validity of U.S. Patent No. 6,535,815, a patent directed to using quality-of-service parameters in A-GPS for mobile terminals. Petition was instituted on all asserted grounds and all challenged claims were invalidated.
- *HTC Corporation, and HTC America, Inc. et al. v. Evolved Wireless LLC* IPR2016-00758. Represented Petitioner HTC in challenging the validity of U.S. Patent No. 8,218,481 was instituted on all asserted grounds.
- *HTC Corporation and HTC America, Inc et al. v. Evolved Wireless LLC* IPR2016-01310. Represented Petitioner HTC in challenging the validity of U.S. Patent No. 7,768,965 was instituted on all asserted grounds.
- *HTC Corporation and HTC America, Inc et al. v. Evolved Wireless LLC* IPR2016-00757. Represented Petitioner HTC in challenging the validity of U.S. Patent No. 7,881,236 was instituted on all asserted grounds.
- *HTC Corporation and HTC America, Inc et al. v. Evolved Wireless LLC* IPR2016-01208 and IPR2016-01227. Represented Petitioner HTC in challenging the validity of U.S. Patent No. 7,746,916. Petitions were instituted on all asserted grounds.

#### Ex Parte and Inter Partes Reexamination

- *Inter Partes* Request No. 95/001,814. Represented Third-Party Requester in challenging the validity of U.S. Patent No. 7,310,416, a patent relating to sending pictures to a paging receiver. All claims cancelled by the PTO.
- *Inter Partes* Request No. 95/001,177. Represented Third-Party Requester in challenging the validity of U.S. Patent No. 7,266,186, a patent relating to sending pictures to a paging receiver. All claims cancelled by the PTO.
- *Ex Parte* Request No. 90/012,899. Represented Third-Party Requester in challenging the validity of U.S. Patent No. RE37,802, a patent directed to a MultiCode Sequence Spread Spectrum for cellular technology.
- *Ex Parte* Request No. 90/012,072. Represented Third-Party Requester in challenging the validity of U.S. Patent No. 7,266,186. All asserted claims asserted in litigation cancelled by the PTO.

## Articles

- U.S. Supreme Court Agrees to Hear Two Cases That Could Potentially Deter Non-Practicing Entities from Filing Frivolous Suits, *The IP Litigator*, Vol. 19, No. 6 (Nov./Dec. 2013)
- Section 315 Estoppel in Inter *Partes* Reexaminations, *Bettcher Industries, Inc. v. Bunzl USA, Inc.* (Fed. Cir., Oct. 3, 2011)
- Strategic Use of Reexamination During Patent Litigation, *BNA Patent, Trademark & Copyright Journal* (October 23, 2009)

## Intellectual Property Law Blog Posts

- "Senators Propose New Legislation to Clarify Patent Eligibility Under 35 U.S.C. § 101," June 23, 2023
- "Recent Expansion of IPR Estoppel Scope Viewed As Victory for Patent Owners," February 28, 2022
- "Patent Trial & Appeal Board Institutes 17 *Inter Partes* Reviews for TCL Communication Technology Holdings, LTD.," March 30, 2016
- "Federal Circuit Limits Estoppel Provision of the AIA," March 29, 2016
- "*Versata Software, Inc. v. Callidus Software, Inc.*: Guidance on Stays Pending Post-Issuance Proceedings," November 24, 2014
- "Federal Circuit Affirms Inequitable Conduct Determination Under *Therasense* "But For" Exception and Reaffirms Significance of *Rohm & Haas*," October 9, 2013
- "*Belkin International, Inc. v. Kappos* - A Cautionary Tale in the Intricate Arena of *Inter Partes* Reexamination," October 10, 2012
- "Federal Circuit Avoids Central Joint Infringement Question and Articulates New Standard For Inducement," September 20, 2012
- "Federal Circuit Declines to Adopt Test for Patent Eligibility Set Forth in *CLS Bank*," August 17, 2012
- "*Calcar* and *Thorner*: Attempting to Reconcile the Federal Circuit's Claim Construction Jurisprudence," July 23, 2012
- "CLS Bank: The patent eligibility of computerized trading platforms for exchanging obligations," July 18, 2012
- "Courts to play greater role moderating enhanced damages for willful patent infringement," July 3, 2012
- "Federal Circuit Extends ResQNet and Allows Discovery of Settlement Negotiations," April 20, 2012

## Books

The Intellectual Property Handbook: A Practical Guide for Franchise, Business, and IP Counsel, Second Edition: Patents (Chapter 5)  
2016

## Media Mentions

Ax Of \$85M Verdict Shows Hurdles In Proving Patent Damages  
*Law360*, 03.04.2022

Sheppard Strikes Again on Connected-Car Patents  
*The Recorder*, 05.10.2019

InterDigital Accused Of Unfair Terms For Telecom Patents  
*Law360*, 01.03.2019

A Landmark FRAND Ruling in TCL v Ericsson  
*Managing IP*, 02.2018

Shout-Out: Sheppard Mullin and Morgan Lewis Dial Up Pressure in IP Battle  
*The Litigation Daily*, 03.24.2016

Niro Haller, Client Ordered To Pay HTC \$4.1M In Patent Suit  
*Law360*, 07.21.2015

Recent Victories by Sheppard Mullin's Intellectual Property Group  
*Legal Times (Korea)*, 03.05.2015

## Speaking Engagements

Instructor at PLI's Fundamentals of Patent Prosecution 2011

Instructor at PLI's Fundamentals of Patent Prosecution 2012

## Practices

Intellectual Property

False Advertising, Lanham Act and Unfair Competition

Patent Litigation

Patent Prosecution and Counseling

Trademark Applications and Prosecution

Trademarks and Trade Dress

Intellectual Property / Antitrust

International Reach

Korea

Post-Grant Proceedings

## Industries

Semiconductors

## Education

J.D., University of San Diego, 2002, *magna cum laude*, *Order of the Coif*, *San Diego Law Review*



B.S. Electrical Engineering, California Polytechnic State University, San Luis Obispo, 1999

## Admissions

California

U.S. District Court for the Eastern District of Texas

U.S. District Court for the Southern District of California

U.S. District Court for the Central District of California

U.S. District Court for the Northern District of California

U.S. Court of Appeals for the Federal Circuit

United States Patent and Trademark Office

United States Supreme Court